

The 2nd December, 1995

No. 14/13/87-6Lab./967.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad, in respect of the dispute between the workman and the management of M/s. Lazzarone Engineers (India) Ltd., Faridabad *versus* Uma Shankar Chaudhary :—

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD

Reference No. 201 of 91

IN THE MATTER OF INDUSTRIAL DISPUTE

between

SHRI UMA SHANKAR CHAUDHARY, C/O G.E.W.C., 1/176, SHASTRY COLONY,
OLD FARIDABAD

.. Workman

and

M/S. LAZZARONE ENGINEERS (INDIA) LTD., 140, D.L.F. INDUSTRIAL
ESTATE, 14TH MILE STONE, MATHURA ROAD, FARIDABAD

.. Management

Present :

Sh. Hoob Lal, A. R. for workman.

Shri. Jagbir Badana, A. R. for management.

AWARD

Under the provisions of section 10(1) of Industrial Disputes Act, 1947 the Government of Haryana have,—vide endorsement No. OV/FD/134-91/23449—54, dated 1st July, 1991, referred the following dispute between the parties, above mentioned for adjudication :—

Whether the termination of services of Shri Uma Shankar Chaudhary, is legal and justified ? If not, to what relief is he entitled ?

2. The case of the workman is that he was appointed as a Grinderman on 28th December, 1988 on payment of monthly wages of Rs. 1,094.40. He is alleged to have worked to the entire satisfaction of the management and never gave any cause for complaint regarding his work and conduct. But without assigning any reason and without serving any charge-sheet upon him, his services were terminated on 2nd April, 1991. So, taking his termination as illegal and an lawful, the workman has claimed reinstatement with continuity of service and full back wages.

3. The case of the management on the other hand is that the workman was appointed on 26th December, 1988 and not 24th December, 1988 as alleged. That on 2nd April, 1991 the workman had left service of his own accord by submitting resignation. The workman had collected his full and final dues as well on 12th June, 1990. So, according to the management, the pleas raised by the workman are incorrect and misconceived and that when he had collected his full and final dues there does not arise the question of his reinstatement.

4. In the rejoinder, pleas taken in the claim statement, have been reiterated while those in the written statement controverted.

5. On the pleadings of the parties, following issues were framed on 18th August, 1992 :—

- (1) As per reference.
- (2) Whether the dispute is not covered under Section 2-A of the Industrial Disputes
- (3) Whether the claimant is estopped to file claim by his own act and conduct ?

6. I have heard Authorised Representative for the parties and persued facts on record. My findings on the aforesaid issues with reasons therefor are as under :—

Issue No 1 :

7. Subash Chander Popli examined as MW-1 stated that he had accepted application Ex. M-1 of the workman for employment and appointed him as semi skilled Grinderman on 26th December, 1988. The workman had resigned his job on 12th June 1990,—vide Ex. M-3 which has accepted on 13th June, 1990. The workman was paid an amount of Rs. 329.75 on account of wages and Rs. 170 as leave encashment and his account was thus squared up. Again on 18th June, 1990 the workman had given application Ex. M-4 for a job. He was re-appointed on the same job,—vide appointment letter Ex. M-5. The workman had thereafter tendered resignation on 2nd April, 1991,—vide Ex. M-6. The witness stated that he had accepted the resignation so given on 3rd April, 1991. According to the witness the workman did not turn up thereafter even to collect his full and final amount of Rs. 1,918.60. It is still lying with the management and the workman can still come and collect the same. In his cross-examination, the witness denied that the claimant had worked continuously from 26th December, 1988 to 2nd April, 1991. The witness also denied that resignation letters placed on record by the management were all bogus documents or that the same had been got executed from the workman by exerting pressure upon him.

8. Workman Uma Shankar examined as WW-1 denied having ever tendered any resignation. Rather he had fallen ill and on that account the gate was closed for him. The workman admitted having been reappointed on 18th June, 1990,—vide Ex. M-5 on his application Ex. M-4 but denied having submitted resignation Ex. M-6 on 2nd April, 1991 and alleged to have been accepted on 31st April, 1991. He could not take a firm stand in his cross-examination that he had never submitted any resignation because therein it was stated by him that Subash Chander Popli (Reference is to MW-1) called him to his office and had asked him to write Ex. M-6 (resignation letter) and sign the same. From this it follows that resignation letter was written by him. This apart, the workman also admitted in his cross-examination that he had not made any complaint to the Labour and Conciliation Officer that his signatures on letter of resignation were obtained under duress. The Authorised Representative for the workman had, during the course of arguments, said that his objection was not to the first resignation letter Ex. M-3 but it was with regards to the second one which is Ex. M-6. The stand of the workman that resignation letter Ex. M-6 was obtained by exerting pressure upon him can not be accepted in view of veiled admission made by the workman and also the fact that no complaint about the same was ever made by him to any one. So when it is proved that the workman had left the job by tendering resignation there does not arise the question of his services having been terminated by the management. Therefore, holding that the services of the workman were not terminated by the management, he is not entitled to any relief.

Issue No. 2 & 3 :

9. Both these issues were to be proved by management. Neither any evidence was led on these issues nor there were discussed during the course of arguments. So, both these issues are decided against the management and in favour of the workman.

10. In view of my findings on Issue No. 1, it is held that the services of the workman was not terminated by the management, he is not entitled to any relief. An award is passed accordingly.

The 7th November, 1994.

N. L. PRUTHI,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court-I, Faridabad.

Endorsement No. 3848, dated the 8th November, 1994.

A copy, with three spare copies, is forwarded, to the Commissioner and Secretary to Government, Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court-I, Faridabad.